



Paper No. 11

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FEB 10 2003

HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON, TX 77057

In re Application of
K. Gifford Goodhue, Jr., et al.
Application No. 09/880,409
Filed: June 13, 2001
Attorney Docket No.
11084.0015.CPUS00GOOD015

: OFFICE OF PETITIONS
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
:

This is in response to the request for reconsideration and request for a four month extension of time, filed December 10, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor Max M. Holmes has refused to join in the filing of the above-identified application. Specifically, the declarations of Carter J. White, Attorney of Record, indicates that the application papers for the above identified patent application was mailed to Mr. Holmes at the last known address and that Michael E. Alexander, counsel for Mr. Holmes, acknowledges receipt of the papers by Mr. Holmes. Further, the declaration of Mr. White indicates that by his actions, Mr. Holmes has refused to execute the declaration.

The declaration has been properly executed by joint inventors K. Gifford Goodhue, Jr., Clinton Scott Norman and John M. Wilkerson, III.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

It should be noted that the evidence presented of Mr. Holmes' refusal to execute the oath/declaration in this application indicates that there may be an issue regarding whether or not Mr. Holmes contributed towards any of the subject matter claimed in this application. If that is the case, the parties are advised to review 37 CFR 1.48 regarding filing a petition to correct inventorship.

Further, as was noted in the letter dated June 10, 2002 from the USPTO, dismissing the petition filed February 8, 2002 under 37 CFR 1.47 (b), a petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign.

Thus, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



Paper No. 12

MAX M. HOLMES
31334 BEARING STAR LANE
TOMBALL, TX 77375

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OFFICE OF PETITIONS

In re Application of
K. Gifford Goodhue, Jr., et al.
Application No. 09/880,409
Filed: June 13, 2001
For: COMPOSITION AND METHOD FOR DUAL FUNCTION SOIL GROUTING
EXCAVATING OR BORING FLUID

Dear Mr. Holmes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON TX 77057